



## **Country Report 2010**

*The Norwegian Bar Association*

*Selected events and activities*

### **1. Lawyer's duty of confidentiality**

The pressure on lawyers' professional secrecy has continued in 2010. The Supreme Court settled in December 2010 a case about the prosecutor's right to require information about the recipient of transfers through a specified law firm's client account. The Bar Association intervened in the case, by issuing a support letter explaining the fundamental aspects of confidentiality. The Supreme Court held unanimously that the name of a client is part of the lawyer's professional secrecy.

The Bar Association also assisted a law firm in another case for the district court defending the client's legal protection against governmental access to the lawyer's client files.

The President, the Secretary General and members of the bar has taken part in public debate throughout the year 2010 about the importance of lawyer's confidentiality. The association also arranged a seminar on confidentiality and published a book based on these lectures. The topics were, among others, the protection of client files from the European Convention on Human Rights and a to-do list for lawyers when exposed to dawn raids from police requiring access to client files.

The Bar Association has repeatedly proposed that the government should form a dedicated Act for Lawyers, where lawyer's confidentiality can be subject to a comprehensive and fundamental review, also balanced against other important values in society.

### **2. The Annual Speech 2010**

The subject of the Bar Association Annual Speech in November was the use of custody and police detention in Norway.

The Bar Association wanted to focus on Norway's use of police detention, which has been subject to recurring criticism from international human rights bodies. Figures for 2010 showed an increase in the use of detention in police cells. These cells are often isolated, have poor facilities and are only meant for a few hours stay, maximum 48 hours. In the speech the Bar Association focused on the fact that Norway has largely failed to comply with the UN and Council of Europe's recommendations.

There was also a special focus on the use of police cells for children. Several measures for improving the conditions were suggested.

The Bar Association encouraged defense lawyers to systematically follow up cases where suspects are kept in police cells for more than the maximum of 48 hours. They are encouraged to request that the court set the transfer to normal cells as a condition for continued detention, and to seek release for anyone who is over the time limit. For that purpose a standard form was made and distributed to defense lawyers requesting release for their client.

### **3. Raising the fee rate in free legal aid**

Raising the fee rate for free legal aid cases is an important concern of the Norwegian Bar Association. President Berit Reiss-Andersen (to the right) and the Secretary General had several meetings with Minister of Justice Knut Storberget (to the left) and argued that the rate should be raised to ensure the quality of the advice given. The argument is that raising the rate is primarily a question of due process and equal access to qualified legal assistance, and not primarily about the lawyers' income. The rate is today NOK 905.



### **4. Advising on management of law firms**

The Bar Association has during 2010 made an effort to write helpful articles on problems concerning the running of law firms.

The internet-articles concern a broad specter of issues, from establishment to close-downs of law firms. A step-by-step introduction on how to start a law firm, have often been followed up by a meeting with the lawyers. These are often young lawyers, wanting to start a firm on their own or together with one colleague or two. They are often grateful for some extra advice from the Bar Association, for example to choose the right company structure. They are offered standard contracts for employees and partners, housing contracts, compliance assistance with marketing, start-up offers on legal databases, guidelines for account-keeping and so on.

One issue of concern is how long a lawyer is obliged to keep the documents in a case after the case is closed. Due to contradictory provisions related to different types of documents, no clear answer has been given from the authorities. The situation challenges the Bar Association into making guidelines on this issue.

### **5. Committee for in-house lawyers established**

In Norway, both private practicing lawyers and in-house lawyers have the same license to practice and can all be members of the Bar Association. The Bar Association has several committees for special member groups, such as Committee for the Advancement of Woman Lawyers, Committee for Human Rights, Committee for the Rule of Law, etc. In 2010 the Bar Association also established a Committee for In-house Lawyers, to promote their common good. The committee has several times arranged full-booked seminars on topics such as "Independence from the client", "Organizing a legal department", "In-house-lawyers duty of discretion" and "Handbook in anti-corruption". Breakfast-seminars for special member groups have so far been a success.